IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1770 OF 2004

Ishwarchand Amichand Govadia & ors. Applicants

versus

The State of Maharashtra Respondents

Mr.Niranjan Mundargi for applicants.
Mr.S.S.Tatkare - APP for respondent State.
Mr.G.H.Keluskar for respondent no.2.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 13th December 2005

PC :

1. Heard Shri Mundargi appearing for applicants, Shri Tatkare for State and Shri Keluskar for respondent no.2. Other respondents are served.

2. The application (Exhibit-15) in Sessions Case No.3791 of 2003 for adding charge u/s 304-B of IPC has been allowed and the learned Fourth Additional Sessions Judge, Thane has altered the charge by including Section 304-B of IPC..

3. The submission of Shri Mundargi appearing in support of this petition is that at the instance of the complainant who has produced a certificate

from the same Doctor who conducted Post Mortem, the charge has been altered.

4. In my view, in the light of prima facie observations of the Court below that the report could not have been discarded straight way that the charge has been altered. No prejudice would be caused to the petitioner-accused by merely altering charge on the basis of the contents of the said report. It does not mean that the contents are admissible in evidence. As far as report and its contents, it would be open for the petitioner to raise all such pleas as are permissible in law including it’s evidentiary value. Equally, it would be for the prosecution to establish and prove the said report and its contents in accordance with law. Leaving all such contentions for both sides open, present petition is disposed of. Needless to state that such contentions would be considered by the Court below uninfluenced by the observations in the impugned order. Ad-interim order vacated forthwith.

(S.C.DHARMADHIKARI, J.)